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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,508	12/04/2001	Michael Kendrick Reiter	CHOCKLER 1-1-7	9654

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EXAMINER

SHAH, KAMINI S

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/005,508

Applicant(s)

REITER ET AL.

Examiner

Kamini S. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

1. Applicant's arguments filed 04/04/05 have been fully considered but they are not persuasive. Regarding to claims 1, 8, and 14 applicant disagrees that MacLellan does not teach "implementing a backoff protocol including returning a LOCKED indicator upon an expectation that a shared resource is unavailable as recited in independent claims. Examiner disagrees since MacLellan includes both protocols for backoff/retry algorithm to randomly retransmit any non-acknowledged messages, as in col. 2, lines 7-19. It is inherent to skilled artisan in the technology of shared resource for implementing backoff protocol that data center may experience failures for time to time, or one or more servers fail or resources are otherwise unavailable. In that event, the use of backoff protocol to randomly retransmits any non-acknowledged messages would be interpreted as LOCKED indicator.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8-12, 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by MacLellan et al 6,177,861.

Regarding to claimed invention of claims 1,8 and 14, MacLellan et al teaches protocols that uses backoff/retry algorithm to randomly retransmit any non-acknowledged messages, see abstract, comprising, a client subsystem that generates a request for

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access to a shared resources such an application processor 101 communicates over a WAN to one or more Interrogators 103 and further communicates with one or more endpoints called Tag 105, see col. 2, lines 54-60, a server subsystem that receives said request, and returns a LOCKED indicator such as Interrogator 105 receives a data message 106 from processor 101, and in the Uplink Data Exchange Protocol, data is present in the Tag 105 which is required to be transmitted to Interrogator 103, and upon successful reception of this data, the acknowledgment message is received by Tag 105, see col. 4, lines 45-col. 5, lines 1-7. Furthermore MacLellan et al discloses that if Downlink acknowledgment signal is not successfully received, then Downlink Acknowledgment is delayed until time slot, see col. 5, lines 8-60. and in figure 6, Downlink data message is transmitted if Tag 105 does not successfully receives the Downlink data message, and waits for the next Downlink data transmission, see col. 7, lines 51-56.

Regarding claims 2, 9, and 15 with broadest interpretation, MacLellan et al teaches length of time  $\delta t$  required for Uplink data Exchange protocol 500 must be completed, see col. 5, lines 61-66.

Regarding claims 3-6, 10-12, 16-18, claimed subject matter is inherently disclosed in the system of MacLellan since most often used protocols for a common bus network is referred to as carrier sense multiple-access/collision-detection, and implementation of this standard is called Ethernet which uses backoff/retry algorithm, and is used in shared network resources.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 7,13 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over MacLellan in view of 6,704,873.

Regarding to claimed invention MacLellan et al teaches backoff protocol for wireless data communication including digital signal processor for digital function as in col. 10, lines 40-41, but does not disclose digitally signing client request. 6,704,873 teach global Internet working gateway architecture in an e-commerce environment including digital signature services. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of invention that any shared resources using Ethernet channel can make advantageous use of digital signature to gain secure access. The teaching of

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digital signature services of 6,704,873 would provide secure transmission and acknowledgment of single packet for MacLellan.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hill et al, PG PUB document 2004/0267897, discloses shared resources allocation in a distributed computing environment for including the monitoring of the activities of the servers in the server pool and allocating shared resources to application programs.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

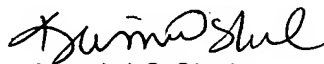
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamini S. Shah whose telephone number is 571-272-2279. The examiner can normally be reached on IFP.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kamini S Shah  
Primary Examiner  
Art Unit 2142

KSS